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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,029	02/13/2006	Rudolf Hansl	HANSL ET AL 5 PCT	8522
25889 7590 07/27/2009 COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576				
EXAMINER				
LOWE, MICHAEL S				
ART UNIT		PAPER NUMBER		
3652				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,029

Applicant(s)

HANS ET AL.

Examiner

Michael Scott Lowe

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date 2/13/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Information Disclosure Statement

The items on the IDS have been considered. The items with no translation or only partial translations were understood mainly by what the drawings were understood to show by the examiner.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the friction wheel and friction surface (for example claims 8 and 12 & pg 20, paragraph 4 of specification) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

The "threaded spindle 102 "should be "threaded nut 102" on page 18.

Page 12, paragraph 5, states "bars 69 running at right angles to the traveling in or out direction" but it appears applicant meant "running parallel" instead.

Appropriate correction is required.

Claim Objections

Claim 7 is objected to because of the following informalities: There is no claim identifier such as "original" or "currently amended" and it just states "7." Without stating it is "claim 7". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). See MPEP § 2173.05(d).

In the present instance, claim 1 recites the broad recitation "conveying means", and the claim also recites "in particular a conveyor belt" which is the narrower statement of the range/limitation.

In the present instance, claim 1 recites the broad recitation "bearing device", and the claim also recites "in particular the base frame" which is the narrower statement of the range/limitation.

In the present instance, claim 15 recites the broad recitation "rotational transmission member", and the claim also recites "in particular a cardan shaft" which is the narrower statement of the range/limitation.

In the present instance, claim 17 recites the broad recitation "about 130mm and 250mm", and the claim also recites "in particular 150mm and 200mm, for example 170mm" which is the narrower statement of the range/limitation.

In the present instance, claim 19 recites the broad recitation "Method", and the claim also recites "in particular for the loading and unloading of loading means" which is the narrower statement of the range/limitation.

In the present instance, claim 19 recites the broad recitation "bearing device", and the claim also recites "in particular the base frame" which is the narrower statement of the range/limitation.

In the present instance, claim 20 recites the broad recitation "conveyor device", and the claim also recites "in particular a rack operating device" which is the narrower statement of the range/limitation.

In claims 19 & 20, reference is made to dependency from prior claims but the various limitations are not always treated as previously mentioned and instead state things like "an...adjustable lifting platform" instead of "the adjustable lifting platform" in claim 20 and similarly in claim 19 with "an adjustable lifting platform", "a base frame", etc. which makes the claim unclear as to its meaning.

Claim 4 also states "and/or" which is unclear as to whether "and" is claimed or rather "or" is being claimed.

In claims 1-20, "traveling in and out direction" is mentioned without an article such as "a" or "the" which makes it unclear if it is a new limitation or not. Likewise the term is alternately stated as "traveling out direction", "traveling in or out direction" or

"direction" in various places making it also unclear. Some but not all of these statements can be better understood if applicant meant "traveling in and out directions" in the first recitation of the limitation.

In various places in the claims there is not number agreement with verbs and articles (if they are not missing altogether) making it unclear what is being claimed.

In various places the claimed do not clearly claim the limitations by having indefinite statements such as claim 1's "if necessary" and "can be" which also make it unclear whether the limitations are being actually claimed or not.

Terms such as "drives down" in claim 1 are unclear and not commonly understood as to their meaning and should be replaced with clear terms.

Claim 1, top of page 4, states "a second pulley means of the second pulley means" but it appears applicant meant states "a second pulling means drive means of the second pulley means of the two pulley drives". Likewise the later mention of "the second pulling means drive" should be "the second pulley means drive".

Claim 10 states "a second transmission means" but this is unclear because there has been no prior mention of a first transmission means.

Claim 13 states "a second pulley means" but this term has already been mentioned in claim 1 and it is thus unclear whether this is a new limitation or not.

Claim 19 states "the shelf compartment" in numerous places but this lacks antecedent basis and appears to have been meant to state "rack compartment instead".

Applicant should review the claims and case for various other similar issues as they are too numerous to completely address here.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as anticipated by Jinks (EP655948B1) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Jinks (EP655948B1).

Re claims 1-20, Jinks teaches an apparatus an the obvious method of use of a load bearing device in a conveyor device (generally 10) with an adjustable lifting platform that moves adjacent to a rack store with a bearing device (generally 10,26,24,etc.) with a base frame (generally 10,26), coupling and upper slides (generally 24, 30), sliding drive and conveying means drive and motor (generally 50, 54), conveying means (generally 34,36), and numerous rollers, drives, linear guides, gears, pulleys, etc. (see figures, generally 28,38,44,48,52,58,60,62,68,74,76,78,etc.). Though it is believed Jinks teaches all the features of the claims, since the nature and number of 112 rejections make the claims unclear, it is noted that would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying Jinks to have any of the claimed features as known equivalents for economic or stylistic reasons as similar systems are well known in the art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Scott Lowe/
Primary Examiner, Art Unit 3652